



The Civil Penalty and Forfeiture Fund

Fiscal Brief

March 4, 2010

Executive Summary

The Civil Penalty and Forfeiture Fund (CPFF) is a significant source of revenue for North Carolina's public schools. Currently, the CPFF generates over \$130 million per year to North Carolina's public schools budget. Additionally, the CPFF has been the subject of litigation that could have budgetary implications.

This Fiscal Brief provides a summary of the CPFF. The Brief explains where moneys in the CPFF come from, and how those moneys are appropriated. Additionally, the Brief summarizes major legislative action, and provides a summary of the litigation and court rulings related to CPFF.

What Is Fines & Forfeitures?

"Fines & forfeitures" refers to the proceeds of all civil penalties, civil forfeitures, and civil fines that are collected by a State agency. These moneys are deposited into the Civil Penalty and Forfeiture Fund (CPFF) and transferred to local education agencies (LEAs) via the State Public School Fund and the State School Technology Fund. The CPFF is administered by the Office of State Budget and Management (OSBM).

Examples of civil penalties, forfeitures, and fines include the following:

- Moneys collected by the Department of Transportation for misuse of dealer plates or axle weight violations
- Moneys collected by the Department of Commerce for credit unions' failure to file reports in a timely manner
- Moneys collected by the Employment Security Commission for overdue employer taxes, the late filing of reports, and for bad checks
- Moneys collected by the Department of Revenue for late filings, underpayments, and failure to comply.

- Moneys collected by the University of North Carolina system from traffic and parking tickets and vehicle registration.
- Moneys collected by the Department of Health and Human Services for violations of departmental vehicle regulations on the grounds of department institutions.

Criminal penalties and moneys collected from driving infractions are **not** examples of civil penalties, forfeitures, or fines, and therefore are not deposited into the CPFF. These moneys instead stay within the county where the infraction occurs, and are used locally to fund public schools in that county.

What is the Legal Origin?

The basic premise of fines & forfeitures is laid out in Article IX, Sec. 7, of the North Carolina Constitution, which states that:

"...the clear proceeds of all penalties and forfeitures and of all fines collected in the several counties for any breach of the penal laws of the State, shall belong to and remain in the several counties, and shall be faithfully appropriated and used exclusively for maintaining free public schools."

Further guidance is provided by G.S. 115C-457.1 through 457.3. This section of statute:

1. Establishes the CPFF – where all collections of civil fines and penalties from State agencies are placed;
2. Defines which types of funds must be transferred to the CPFF;
3. Allows State agencies to keep up to 20% of collections to cover the cost of collection;¹
4. Requires the State to allot moneys in the fund to LEAs based on average daily membership (ADM).

¹ Actual collection costs are established by OSBM and State Agencies. See Appendix A for collection costs by agency.